

US BANK/FCC MAY 12 2009

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READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDINGFEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE
FORM 159Approved by OMB
3060-0589
Page No. 1 of 2

(1) LOCKBOX # 979091		DOCKET FILE COPY ORIGINAL		SPECIAL USE ONLY	
SECTION A - PAYER INFORMATION					
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Circle Telephone & Electric, LLC			(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) 1015.00		
(4) STREET ADDRESS LINE NO. 1 #1 Alder Street					
(5) STREET ADDRESS LINE NO. 2 P.O. Box 3					
(6) CITY Circle			(7) STATE AK	(8) ZIP CODE 99733	
(9) DAYTIME TELEPHONE NUMBER (include area code) (907) 773-3474			(10) COUNTRY CODE (if not in U.S.A.) U.S.A.		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(11) PAYER (FRN) 0018760876			(12) FCC USE ONLY		
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(13) APPLICANT NAME Circle Telephone & Electric, LLC					
(14) STREET ADDRESS LINE NO. 1 #1 Alder Street					
(15) STREET ADDRESS LINE NO. 2 P.O. Box 3					
(16) CITY Circle			(17) STATE AK	(18) ZIP CODE 99733	
(19) DAYTIME TELEPHONE NUMBER (include area code) (907) 773-3474			(20) COUNTRY CODE (if not in U.S.A.) U.S.A.		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(21) APPLICANT (FRN) 0018760876			(22) FCC USE ONLY		
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(23A) CALL SIGN/OTHER ID		(24A) PAYMENT TYPE CODE CUT		(25A) QUANTITY 1	
(26A) FEE DUE FOR (PTC) 1015.00		(27A) TOTAL FEE 1015.00		FCC USE ONLY	
(28A) FCC CODE 1		(29A) FCC CODE 2			
(23B) CALL SIGN/OTHER ID		(24B) PAYMENT TYPE CODE		(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)		(27B) TOTAL FEE		FCC USE ONLY	
(28B) FCC CODE 1		(29B) FCC CODE 2			
SECTION D - CERTIFICATION					
CERTIFICATION STATEMENT I, <u>Daniel Marzaph</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.					
SIGNATURE <u>Daniel Marzaph</u>			DATE <u>May 8 2009</u>		
SECTION E - CREDIT CARD PAYMENT INFORMATION					
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____					
ACCOUNT NUMBER _____			EXPIRATION DATE _____		
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.					
SIGNATURE _____			DATE _____		

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE (CONTINUATION SHEET)
FORM 159-C

Page No 2 of 2

SPECIAL USE

FCC USE ONLY

USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT
SECTION BB - ADDITIONAL APPLICANT INFORMATION

(13) APPLICANT NAME

Circle Telephone

(14) STREET ADDRESS LINE NO. 1

Mile 161 Steese Hwy

(15) STREET ADDRESS LINE NO. 2

P.O. Box 1

(16) CITY

Circle

(17) STATE

AK

(18) ZIP CODE

99733

(19) DAYTIME TELEPHONE NUMBER (include area code)

(907) 773-1222

(20) COUNTRY CODE (if not in U.S.A.)

U.S.A.

FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN)

0005068135

(22) FCC USE ONLY

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID

(24A) PAYMENT TYPE CODE

(25A) QUANTITY

(26A) FEE DUE FOR (PTC)

(27A) TOTAL FEE

FCC USE ONLY

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

(23C) CALL SIGN/OTHER ID

(24C) PAYMENT TYPE CODE

(25C) QUANTITY

(26C) FEE DUE FOR (PTC)

(27C) TOTAL FEE

FCC USE ONLY

(28C) FCC CODE 1

(29C) FCC CODE 2

(23D) CALL SIGN/OTHER ID

(24D) PAYMENT TYPE CODE

(25D) QUANTITY

(26D) FEE DUE FOR (PTC)

(27D) TOTAL FEE

FCC USE ONLY

(28D) FCC CODE 1

(29D) FCC CODE 2

(23E) CALL SIGN/OTHER ID

(24E) PAYMENT TYPE CODE

(25E) QUANTITY

(26E) FEE DUE FOR (PTC)

(27E) TOTAL FEE

FCC USE ONLY

(28E) FCC CODE 1

(29E) FCC CODE 2

(23F) CALL SIGN/OTHER ID

(24F) PAYMENT TYPE CODE

(25F) QUANTITY

(26F) FEE DUE FOR (PTC)

(27F) TOTAL FEE

FCC USE ONLY

(28F) FCC CODE 1

(29F) FCC CODE 2

Circle Telephone and Electric, LLC

P.O. Box 3
Circle, Alaska 99733
(907) 773-3474

May 8, 2009

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
Wireline Competition Bureau
P.O. Box 979091
St. Louis, MO 63197-9000

RE: Application for Domestic Section 214 Transfer of Control

Dear Ms. Dortch:

Enclosed are the original and four (4) copies of an Application for Consent of Domestic § 214 Transfer of Control from Circle Telephone to Circle Telephone and Electric, LLC. As required under the Commission's Rules, I have also enclosed a completed Fee Remittance Form 159 to satisfy the filing fee for this application.

An additional copy of the application has been enclosed. Please date and stamp the duplicate copy and return it in the enclosed self-addressed stamped envelope.

If you have any questions or are in need of additional information, please contact me at my email address dmasephol.sbcglobal.net.

Sincerely,



David Masephol
Member Owner

Enclosures: Application
Form 159
Return envelope

Before the
FEDERAL COMMUNICATION COMMISSION
Washington, D.C. 20554

In the Matter of the Application of)	
)	
RICHARD and EARLA HUTCHINSON, d/b/a)	File No. _____
CIRCLE TELEPHONE, Transferor)	
)	
And)	
)	
CIRCLE TELEPHONE AND ELECTRIC, LLC,)	
Transferee)	
)	
For Consent of Domestic Transfer of Control)	
Pursuant to Section 214 of the Communications)	
Act of 1934, as amended)	
_____)	

APPLICATION OF DOMESTIC § 214 TRANSFER OF CONTROL
AND REQUEST FOR STREAMLINED PROCESSING

Richard and Earla Hutchinson, d/b/a Circle Telephone ("CT" or "Transferor"), and Circle Telephone and Electric, LLC ("CTE" or "Transferee") (CT and CTE collectively "Applicants"), hereby respectfully request authorization pursuant to Section 214 of the Communications Act, as amended, 47 U.S.C. § 214, and Section 63.03 and 63.04 of the Commission's Rules, 47 C.F.R. § 63.03 and § 63.04, to transfer control of Circle Telephone to Circle Telephone & Electric, LLC.

Background

Applicant Circle Telephone is a rural incumbent local exchange carrier providing local exchange and exchange access service to approximately 44 subscribers in Circle, Alaska. Richard and Earla Hutchinson ("Hutchinsons"), licensed partners under the laws of the State of Alaska, have been the Owner-Operators of Circle Telephone for 25 years and are now ready to retire.

Applicant Circle Telephone & Electric, LLC has agreed to purchase the assets of Circle Telephone. CTE is a limited liability company organized under the laws of the State of Alaska. Brian Asplund and David Masephol, the two member owners of CTE, have strong ties to the Circle community and have assisted Mr. Hutchinson in the operations of his business. David Masephol also has significant experience in electronic engineering providing CTE the expertise needed to ensure the continuation of reliable local exchange service.

Upon federal approval of the transaction, CTE will operate in the same service territory and provide service at existing rates, terms and conditions making the transaction transparent to the serving area's customers.

The Applicants request streamlined treatment pursuant to 47 CFR § 63.03. Circle Telephone, Transferor, is a small incumbent local exchange carrier with fewer than two percent of the nation's subscriber lines and has no overlapping or adjacent service areas. The Regulatory Commission of Alaska determined in U-08-101 Order No. 3 (Exhibit A) that it is in the public's best interest to grant the transfer of the Certificate of Public Convenience and Necessity No. 463. Final approval from the Federal Communications Commission (FCC) will complete the transaction with no reduction or impairment of service in accordance with FCC Report and Order 02-78.

Section 63.04 Application – Domestic Section 214 Authorization

1. Name, address and telephone number of each applicant:

a. Circle Telephone (Transferor)

Richard and Earla Hutchinson, Partners

PHONE	(907) 773-1222
FAX	(907) 773-1200
ADDRESS	P.O. Box 1 Circle, Alaska 99733
EMAIL	<u>hutch@starband.net</u>

b. Circle Telephone and Electric, LLC (Transferee)

Brian Asplund and David Masephol, Member Owners

PHONE	(907) 773-3474
ADDRESS	P.O. Box 3 Circle, Alaska 99733
EMAIL	Brian Asplund bsasplund@yahoo.com David Masephol dmasephol@sbcglobal.net

2. Government, state or territory under the laws of which each corporate or partnership applicant is organized:

The Transferor is a partnership under the laws of the State of Alaska. The Transferee is a limited liability company organized under the laws of the State of Alaska.

3. Name, Title, Post Office address, and telephone number of the officer or contact point, such as legal council, to whom correspondence concerning the application is to be addressed:

a. For the Transferor

Richard Hutchinson, Primary Contact

PHONE	(907) 773-1222
FAX	(907) 773-1200
ADDRESS	P.O. Box 1 Circle, Alaska 99733
EMAIL	hutch@starband.net

b. For the Transferee

David Masephol, Primary Contact

PHONE	(907) 773-3474
ADDRESS	P.O. Box 3 Circle, Alaska 99733
EMAIL	David Masephol dmasephol@sbcglobal.net

4. Name, address, citizenship and principal business of any person or entity that directly or indirectly owns at least ten (10) percent of the equity of the applicant, and the percentage of equity owned by each of those entities:

a. Transferors

Richard Hutchinson	50% Equity	US Citizen	Telecommunications
Earla Hutchinson	50% Equity	US Citizen	Telecommunications
P.O. Box 1			
Circle, Alaska 99733			

b. Transferee

David Masephol	50% Equity	US Citizen	Telecommunications
P.O. Box 8			
Circle, Alaska 99733			
 Brian Asplund	 50% Equity	 US Citizen	 Telecommunications
P.O. Box 18			
Circle, Alaska 99733			

5. **Certification pursuant to 47 C.F.R. Sections 1.2001 through 1.2003 that no party to the application is subject to denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.**

All parties to this Application hereby certify, pursuant to 47 C.F.R. Sections 1.2001 – 1.2003, that no party to the present Application is subject to denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

6. **Description of the Transaction:**

By this Application, the Applicants request approval for the transfer of control of Circle Telephone to Circle Telephone & Electric, LLC. CTE has agreed to purchase the assets of Circle Telephone pursuant to the parties Asset Sale Agreement. State authorization to conduct the proposed transaction has been granted by the Regulatory Commission of Alaska under U-08-101 Order No. 3 (Exhibit A). Upon federal approval of the transaction, CTE will operate in the same service territory and provide tariffed telecommunication services at the same rates, terms and conditions used by Circle Telephone making the transaction transparent to the serving area customers.

7. **Description of the geographic areas in which the Transferor and Transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area:**

Transferor, Circle Telephone is an incumbent local exchange carrier serving Circle, Alaska, a remote native village in Interior Alaska. Circle Telephone provides facilities-based local exchange, exchange access services and enhanced calling features to approximately 44 subscribers.

As outlined in The Regulatory Commission of Alaska, U-08-101, Order No. 3, the serving area description is as follows:

“8 mile corridor in the form of a parallelogram with its true point of beginning at the NE corner of Section 17, Township 12N, Range 18E, Circle Meridian; thence South along said section lines a distance of Eight (8) miles to the Southeast corner of Section 20, Township 11N, Range 18E, thence in Southwesterly direction in a straight line to the Southwest corner of Section 25 of Township 10N, Range 16E; thence North along said section line a distance of Eight (8) miles to the northwest corner of section 24, Township 11N, Range 16E thence in a Northeasterly straight line to the true point of beginning.”

8. Statement as to how the application fits into one or more of the presumptive streamlined categories in this section or why it is otherwise appropriate for streamlined treatment:

Applicant Circle Telephone is a small incumbent local exchange carriers as defined in 47 C.F.R. § 64.1902. Pursuant to 47 C.F.R. § 63.03(2)(iii), CT provides service to fewer than two (2) percent of the nation’s subscriber lines; and has no overlapping or adjacent service areas. The Regulatory Commission of Alaska determined in U-08-101 Order No. 3 (Exhibit A) that it is in the public’s best interest to grant the transfer of the Certificate of Public Convenience and Necessity No. 463. Final approval from the Federal Communications Commission will complete the transaction without any loss or impairment of subscriber service in accordance with FCC Report and Order 02-78 para. 64.

9. Identification of all other Commission applications related to the same transaction:

No other applications have been filed related to this transaction. The Transferor, Circle Telephone, however, would like to disclose that on February 24, 2009 CT received an Omnibus Notice of Apparent Liability for Forfeiture (NAL), File No. EB-08-TC-3421. The NAL was issued to CT for failing to submit an annual Customer Proprietary Network Information

("CPNI") compliance certificate on or before March 1, 2008. Based on this oversight, a fee of \$20,000 has been assessed.

On March 11, 2009, pursuant to 47 C.F.R. Sec. 1080(b)(4), Mr. Hutchinson submitted additional evidence to the Commission in support of his request for either a cancellation or decrease in the fine. As of this filing, no decision has been received from the FCC in regard to NAL File. No. EB-08-TC-3421. The Hutchinsons agree that they will continue to be the responsible party in regard to this NAL and hope that it will in no way delay the transfer of control to CTE.

10. Statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure:

No party to the Application is requesting special consideration because of imminent business failure.

11. Identification of any separately filed waiver requests being sought in conjunction with the transaction:

There are no separately filed waiver requests being sought in conjunction with the transaction.

12. Statement showing how grant of the application will serve the public interest, convenience and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on completion in domestic markets:

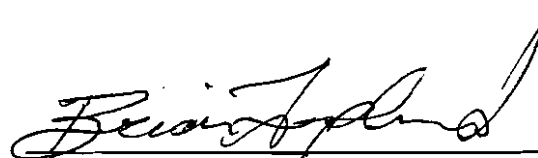
The proposed transfer will service the public interest in that it allows Circle Telephone & Electric, LLC to continue providing local exchange telecommunication service to the remote village of Circle, Alaska. Given the remoteness and extreme weather conditions of the serving area, it is difficult to find qualified applicants to continue providing local exchange service. Should the Application for Transfer of Control not be granted, the community will no longer have telecommunication service when the owners of CT retire.

CONCLUSION

For the reasons stated above, the Applicants respectfully submit that the information in the Application is true and accurate to the best of their knowledge and that the public interest, convenience, and necessity would be furthered by a grant of this Application for the transfer of control of Circle Telephone to Circle Telephone & Electric, LLC.

Respectfully submitted this 8th day of May, 2009.


David Masephol, Member Owner
Circle Telephone & Electric, LLC


Brian Asplund, Member Owner
Circle Telephone & Electric, LLC


Richard Hutchinson, Partner
Circle Telephone



Earla Hutchinson, Partner
Circle Telephone

EXHIBIT A

REGULATORY COMMISSION OF ALASKA

U-08-101 Order No. 3

**Order Granting Application for Transfer of Certificate of Public
Convenience and Necessity, Approving Service Area Description
and Requiring Filings**

1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

3
4 Before Commissioners:

Robert M. Pickett, Chairman
Kate Giard
Paul F. Lisankie
Anthony A. Price
Janis W. Wilson

5
6
7 In the Matter of the Joint Application to Transfer)
8 Certificate of Public Convenience and Necessity)
9 No. 463 to Provide Local Exchange Carrier)
10 Telecommunications Utility Service from)
11 RICHARD HUTCHINSON d/b/a CIRCLE)
TELEPHONE to Circle Telephone and Electric,)
LLC)

U-08-101

ORDER NO. 3

12
13 ORDER GRANTING APPLICATION FOR TRANSFER OF CERTIFICATE
14 OF PUBLIC CONVENIENCE AND NECESSITY, APPROVING SERVICE
AREA DESCRIPTION, AND REQUIRING FILINGS

15 BY THE COMMISSION:

16 Summary

17 We grant the joint application filed by Richard Hutchinson d/b/a Circle
18 Telephone (CT) and Circle Telephone and Electric, LLC (CTE) to transfer Certificate of
19 Public Convenience and Necessity (Certificate) No. 463 from CT to CTE. We approve
20 the service area description included as an appendix to this order. We require filings.
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Background

CT and CTE filed a joint application to transfer Certificate No. 463 from CT to CTE.¹ We found the application incomplete and required filings.² CTE supplemented the application.³ We found the application as supplemented complete.⁴ We issued public notice with comments due by December 30, 2008. We received no comments. CTE made additional filings.⁵

Discussion

Application for Transfer

We evaluate an application for transfer of a certificate to determine whether the proposed transfer is consistent with the public interest and whether the transferee is fit, willing, and able to provide the utility services for which it seeks a certificate.⁶

¹Application for Approval of Transfer of Certificate of Public Convenience and Necessity No. 463 from Richard Hutchinson d/b/a Circle Telephone to Circle Telephone and Electric, LLC, filed August 22, 2008 (Application).

²Order U-08-101(1), Order Finding Application Incomplete, Requiring Filing, Addressing Timeline for Decision, Designating Commission Panel, and Appointing Administrative Law Judge, dated September 15, 2008; as corrected by Errata Notice to Order U-08-101(1), dated September 24, 2008 (Order U-08-101(1)).

³Electronic mail from D. Masephol, filed September 19, 2008; Master Utility Directory Information, filed September 29, 2008; Supplemental Filing in Response to U-08-101 Order No. 1, filed September 30, 2008; and Supplemental Filing in Response to U-08-101 Order No. 1, filed October 13, 2008.

⁴U-08-101(2), Order Finding Application Complete and Addressing Timeline for Decision, dated November 3, 2008.

⁵Electronic mail from J. Dawn, filed March 6, 2009; electronic mail from D. Masephol, filed March 6, 2009.

⁶Re Seagull Energy Corporation, 6 APUC 612, 618 (1985); Re Multivisions, Ltd. 7 APUC 297, 302 (1986).

1 Public Interest

2 We granted CT Certificate No. 463 to provide local exchange telephone
3 utility service in and around Circle, Alaska. We note Richard Hutchinson (Hutchinson),
4 the present owner of CT, has expressed a desire to retire and as a result has entered
5 into the purchase and sales agreement with the principals of CTE. With the sale of
6 utility plant and the transfer of the certificate, CTE will continue to provide local
7 exchange telecommunications service.

8 CTE is a business entity established to provide telephone service to the
9 community of Circle. CTE has no operating history. It is owned and managed by David
10 Masephol (Masephol) and Brian Asplund (Asplund). Both are residents of the
11 community of Circle, and they will operate the telephone utility.⁷

12 We find that public convenience and necessity require the community of
13 Circle to have ongoing telephone utility service and that granting the application to
14 transfer Certificate No. 463 from CT to CTE is in the public interest.

15 Is CTE fit, willing, and able?

16 We assess a utility candidate according to whether the applicant is fit,
17 willing, and able to provide the utility service for which the candidate seeks authority.⁸
18 In assessing fitness, willingness, and ability, we review the technical, managerial, and
19 financial capacity of the applicant.

20 Technical Fitness

21 Technical fitness relates to the ability of CTE to provide local exchange
22 telephone services to ratepayers in Circle as required under Certificate No. 463.
23 Technical fitness requires CTE to have both the telephony facilities (outside plant and

24

⁷Application at 8.

25 ⁸AS 42.05.241.

1 central office hardware and software platforms) and the educational or experiential
2 ability to operate the telephony facilities properly.

3 CTE is a business entity established to provide utility services currently
4 provided by CT. The principals of CTE, Asplund and Masephol, have practical
5 experience providing telecommunications services in Circle, Alaska, having acquired
6 their knowledge and technical proficiency by employment and provision of service at
7 CT. Asplund currently operates the telephone utility when Hutchinson, the present
8 owner of CT, is away from Circle. Masephol has electronic engineering experience. In
9 its purchase of CT, CTE has arranged for Hutchinson to remain available to assist after
10 the sale and to serve as a consultant for five months after closing of the sales
11 transaction. CTE also plans to seek technical assistance not otherwise available in
12 Circle, Alaska, to the extent necessary to effectively operate the utility.⁹

13 The telephone assets of CT will be transferred to CTE along with
14 Certificate No. 463.¹⁰ As CTE will be providing service using the existing telephone
15 plant, we conclude that CTE will have the technical capability to serve if the transfer is
16 completed.

17 Based on the information submitted, we find CTE to be technically fit.

18 Managerial Fitness

19 We find CTE's management possesses telecommunications-related
20 managerial experience with respect to CT's current operations in Circle. The résumés
21 of Masephol and Asplund evidence their managerial knowledge, skills, and abilities.
22 Coupled with the fact the CTE management team is currently operating CT
23

24 ⁹Application at 10.

25 ¹⁰*Id.* at 1-2, and Asset Sales Agreement.
26

1 successfully, we find CTE is managerially capable of providing telephone utility service
2 in CT's service area.

3 Based on the information submitted, we find CTE managerially fit.

4 Financial Fitness

5 CTE is a newly-formed limited liability company and does not yet have a
6 comparative statement of financial condition or comparative statement of income and
7 undistributed earnings.¹¹ In the absence of demonstrated operating history and
8 commonly available financial records prepared and maintained by an operating entity,
9 we assess financial capacity by looking to other indicators of fiscal soundness (i.e.,
10 assets, cash, and financing) to establish financial ability and condition. We also review
11 the personal financial statements of principals of an acquiring entity.

12 CTE proposes to purchase the utility assets owned by Hutchinson for a
13 purchase price of \$600,000. CTE has deposited \$120,000 toward the purchase with
14 Denali State Bank. Denali State Bank has authorized a loan in the amount of \$380,000.
15 Hutchinson has agreed to finance \$100,000 of the purchase price over five years at
16 seven percent interest with monthly installments of \$2,000.00.¹²

17 The parties' estimate plant value at \$487,000. We note that figure is just
18 that, *an estimate*, and not actual recorded net book value. We further note CTE intends
19 to pay \$113,000 for intangible assets. There is nothing in the record that precisely
20 establishes by how much the purchase price exceeds the actual net plant shown on the
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24 ¹¹Application at 10.

25 ¹²*Id.* at 10-11.

1 electric¹³ and telephone company books. We are concerned that the parties have
2 agreed to an acquisition price which is not precisely allocated between the electric and
3 telephone utilities.

4 On the basis of the financial information submitted and CTE's commitment
5 not to raise rates to recover acquisition costs, we find CTE is financially fit.

6 Having determined that public interest requires the continued availability of
7 telephone utility service in the community of Circle, and having found CTE fit, willing,
8 and able, we grant the application for transfer of Certificate No. 463 to provide
9 telephone utility service to Circle, subject to condition.

10 Acquisition Adjustment

11 An acquisition adjustment is an amount added to rate base that reflects
12 the difference between the net book value of the acquired utility and the purchase price.
13 We use the standard set by AS 42.05.441(b) when evaluating acquisition adjustments.

14 This statute provides, in pertinent part, that:

15
16 In determining the value for rate-making purposes of public utility property
17 used and useful in rendering service to the public, the commission shall be
18 guided by acquisition cost or, if lower, the original cost of the property to the
19 person first devoting it to public service

20 General commission policy has been to disallow acquisition adjustments unless the
21 ratepayers will benefit, and the utility has demonstrated specific, tangible benefits in an
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23
24 ¹³The electric utility transfer was considered in Docket U-08-100.
25 Docket U-08-100 is titled *In the Matter of the Joint Application to Transfer Certificate of
26 Public Convenience and Necessity No. 256 to Provide Electric Utility Service from
RICHARD HUTCHINSON d/b/a CIRCLE ELECTRIC to Circle Electric, LLC.*

1 amount at least equal to the cost of the acquisition adjustment claimed.¹⁴ We inform
2 CTE of our policy because the application does not address the issue, and we do not
3 anticipate a revenue requirement filing until some future date.

4 Condition Placed Upon CTE

5 Since the parties propose a purchase price in excess of book costs, we
6 question whether this utility will operate in the public interest if it increases rates to
7 ratepayers in order to recoup the purchase cost. We must ensure that Circle's
8 ratepayers enjoy just and reasonable rates. We do not believe acquisition price
9 recovery is appropriate for purposes of setting regulated rates in this circumstance.
10 CTE has not proposed to recoup any acquisition costs through increased rates and has
11 expressly stated that it has no plans to raise rates for ratepayers in Circle. Accordingly,
12 we condition our approval of this application to protect the ratepayers.

13 As long as we economically regulate CTE, we will not allow the utility to
14 recover an acquisition adjustment premium in the rates, unless, and then only the extent
15 that, CTE documents with substantial evidence tangible benefits to its ratepayers in the
16 amount of the acquisition adjustment it seeks to claim.

17 We require that CTE not raise utility charges for the telephone utility
18 ratepayers to recover the difference between the purchase price and actual net plant
19 value paid for CT assets. In addition, CTE shall not raise rates for telephone ratepayers
20 to recover for any additional interest or associated charges related to the funding of that

21
22 ¹⁴Order U-02-13(7)/U-02-14(7)/U-02-15(7), *Order Affirming Electronic Ruling*
23 *Vacating Hearing, Accepting Stipulation, Subject to Condition, and Cancelling Hearing*,
24 dated March 19, 2003. Docket U-02-13 is titled *In the Matter of the Tariff Revision,*
25 *Designated as TA15-290, Filed by GOLDEN HEART UTILITIES, INC., for Its Sewer*
26 *Division, for Interim and Permanent Rate Relief.* Docket U-02-14 is titled *In the Matter*
of the Tariff Revision, Designated as TA19-118, Filed by GOLDEN HEART UTILITIES,
INC., for Its Water Division, for Interim and Permanent Rate Relief. Docket U-02-15 is
titled *In the Matter of the Tariff Revision, Designated as TA76-37, Filed by COLLEGE*
UTILITIES CORPORATION, INC. for an Increase to Sewer Treatment Charges.

1 difference. The effect of paying a purchase price above actual net plant value shall in
2 no manner negatively impact ratepayers.

3 Service Area Description & Map

4 The service area description for Certificate No. 463 remains unchanged.
5 We approve the service area description attached as an appendix to this order.

6 Tariff

7 We required CTE to file an original tariff pursuant to our rules and
8 regulations.¹⁵ On September 30, 2008, CTE filed Tariff No. 1.¹⁶ Tariff No. 1 contains
9 terms and conditions of service, including rates and charges identical to those presently
10 charged by CT. At issue is whether the proposed tariff is reasonable and whether it
11 should be approved as filed.

12 When we granted CT's application for a certificate to furnish local
13 exchange telephone service in and around Circle,¹⁷ our analysis of CT's application
14 determined that CT's rates were reasonable, and we approved them on an inception
15 basis. Our current analysis confirms that CTE's tariff mirrors CT's rates as filed in 1995.
16 Typically, when no change in rate occurs as a result of a transfer, we require a utility to
17 file a tariff adoption notice to reflect the change in ownership until a new tariff may be
18 filed.¹⁸ Accordingly, we conclude after analysis that the rates reflected in CTE's Tariff
19 No. 1 are just and reasonable. The proposed tariff filed September 30, 2008, by CTE
20

21 ¹⁵Order U-08-101(1).

22 ¹⁶See *Supplemental Filing in Response to U-08-101 Order No. 1*, filed
23 September 30, 2008 (Tariff No. 1).

24 ¹⁷Order U-95-20(1), *Order Approving Application, Subject to Condition;*
25 *Approving Current Tariff on an Inception Basis; and Requiring Filing*, dated August 14,
26 1995.

¹⁸3 AAC 48.400.

1 as Tariff No. 1 is approved as noted below and shall be effective upon the date that the
2 Certificate transfer is concluded. We approve the Tariff Sheet Nos. 1, 1.1.-1.5, 2, 2.1-
3 2.6, 3, 3.1-3.21, 4, 4.1-4.9, 5, and 5.1-5.3, 5.5-5.7 filed on September 30, 2008. We
4 require that CTE correct Tariff Sheet No. 5.4 to correctly reflect the most current
5 regulatory cost charge and the most recent universal access surcharge.

6 Exemption from Regulation

7 In Docket U-96-125, we certified the results of CT's deregulation ballot
8 conducted under AS 42.05.711(f) and AS 42.05.712, thereby confirming CT's
9 deregulated status. Such exemption from economic regulation is not acquired by CTE
10 by virtue of our approval of the transfer of Certificate No. 463. AS 42.05.711 and
11 AS.05.712 reference deregulation within the context of the "utility," not a certificate.
12 Further, our language in the order certifying CT's deregulation ballot discusses
13 deregulation of the CT entity, not the certificate, stating "[a]ccordingly, Circle Telephone
14 is exempt from economic regulation" ¹⁹ Accordingly, because CT's deregulation
15 exemption does not transfer to CTE, CTE will have to seek its own exemption from
16 regulation if it wishes to be deregulated.

17 We inform CTE that it may seek an exemption from economic regulation
18 under AS 42.05.711(f) by means of the deregulation process in accordance with
19 AS 42.05.712. We direct CTE to inform us by written notice within the time set in the
20 ordering paragraphs if it intends to seek an exemption from regulation under
21 AS 42.05.711(f) by means of a deregulation ballot under AS 42.05.712.

22
23
24 ¹⁹See Order U-96-125(2), *Order Certifying Results of Elections*, dated
25 January 28, 1997, at 2-3. Docket U-96-125 is titled *In the Matter of the Deregulation*
26 *Election of CIRCLE TELEPHONE under AS 42.05.711(f) and AS 42.05.712.*

1 Notice of Closing

2 A certificate may not be sold or transferred without our prior approval.²⁰
3 Therefore, while we find CTE fit, willing, and able to operate and provide local exchange
4 telecommunications utility service and the transfer to CTE to be in the public interest,²¹
5 we do not transfer this certificate until CTE provides written notice of the closing of the
6 sales transaction has occurred. We approve the application to transfer Certificate
7 No. 463 subject to the condition that the applicants provide us with written notice of the
8 final closing date of the sales transaction within fourteen days after closing.

9 Final Order

10 This order constitutes the final decision in this proceeding. This decision
11 may be appealed within thirty days of the date of this order in accordance with
12 AS 22.10.020(d) and the Alaska Rules of Court, Rules of Appellate Procedure
13 (Alaska R. App. P. 602(a)(2)). In addition to the appellate rights afforded by
14 AS 22.10.020(d), a party may file a petition for reconsideration as permitted by
15 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is then
16 calculated under Alaska R. App. P. 602(a)(2).

17 ORDER

18 THE COMMISSION FURTHER ORDERS:

19 1. The joint application for transfer of Certificate of Public Convenience
20 and Necessity No. 463 from Richard Hutchinson d/b/a Circle Telephone to Circle
21 Telephone and Electric, LLC filed August 22, 2008, and supplemented September 19,
22 2008; September 29, 2008; September 30, 2008; and October 13, 2008, is granted.

24 ²⁰AS 42.05.281.

25 ²¹AS 42.05.241.

1 2. The service area description included as an appendix to this order is
2 approved.

3 3. The proposed tariff filed September 30, 2008, by Circle Telephone and
4 Electric, LLC as Tariff No. 1, is approved as set out in the body of this order and shall be
5 effective upon the date that the transfer is concluded.

6 4. Circle Telephone and Electric, LLC shall file a new Tariff Sheet No.
7 5.4, corrected as required in the body of this order.

8 5. By 4 p.m. April 24, 2009, Circle Telephone and Electric, LLC shall file
9 written notice of whether it intends to seek exemption from economic regulation.

10 6. Within fourteen days after closing of the sales transaction, Circle
11 Telephone and Electric, LLC shall file a written notice of the date of closing of the
12 transaction.

13 DATED AND EFFECTIVE at Anchorage, Alaska, this 10th day of April, 2009.

14 BY DIRECTION OF THE COMMISSION
15 (Commissioners Robert M. Pickett and Paul F. Lisankie,
16 not participating.)



APPENDIX

Certificate of Public Convenience
and Necessity No. 463 Granted to

CIRCLE TELEPHONE & ELECTRIC, LLC

DESCRIPTION OF SERVICE AREA:

Circle Area

8 mile corridor in the form of a parallelogram with its true point of beginning at the NE corner of Section 17, Township 12N, Range 18E, Circle Meridian; thence South along said section lines a distance of Eight (8) miles to the Southeast corner of Section 20, Township 11N, Range 18E, thence in Southwesterly direction in a straight line to the Southwest corner of Section 25 of Township 10N, Range 16E; thence North along said section line a distance of Eight (8) miles to the northwest corner of section 24, Township 11N, Range 16E thence in a Northeasterly straight line to the true point of beginning.

CHRONOLOGY:

Permanent Certificate Granted:	08/14/95 (U-95-020(1))
Certificate transferred from Richard Hutchinson	
Circle Telephone:	04/10/09 (U-08-101(3))

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